IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 20TH JULY 2007 / 29TH ASHADHA 1929

WP(C).No. 22431 of 2007(U)

PETITIONER:

M/S.PHILIPSON AND SONS, MILNE ROAD,
WILLINGTON ISLAND, KOCHI-682 003. REPRESENTED BY
ITS MANAGING PARTNER, SRI.K.C.PHILIP.

BY ADV. SRI.R.MOHANDAS
SRI. R.KISHORE KUMAR (MATTANCHERRY)
SRI.R.MURALIDHAR
SRI.V.K.SHAMUSUDHEEN
SRI.MANOJ KUMAR.M

RESPONDENTS:

ASSISTANT COMMISSIONER, VAT SPECIAL
CIRCLE (PRODUCE), DEPARTMENT OF COMMERCIAL TAXES,
MATTANCHERRY.

BY G.P. SRI.C.K.GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/07/2007, THE COURT ON 20/07/2007 DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.22431 of 2007

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Dated this the 20th day of July, 2007.

JUDGMENT

The petitioner is challenging Ext.P3 order whereunder a penalty of Rs.10,000/- is levied for non-filing of monthly sales tax return for May 2007. However, it is seen from Ext.P3 that petitioner has filed a belated nil return for the said month. The officer does not appear to have conducted any enquiry as to whether the petitioner carried on business and consequently whether the nil return submitted is correct or not. It is for the officer to conduct enquiry about petitioner's dealings and if nil return filed is wrong, he is free to levy deterrent penalty. However, since the violation is only technical and return filed is not so far rejected, I dispose of the W.P. reducing the penalty from rupees ten thousand to rupees one thousand leaving it open to the officer to levy penalty if there is any suppression or evasion of tax.

The W.P. is disposed of as above.

C.N.RAMACHANDRAN NAIR
Judge

pms